

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In the application of
Shoichi Nakamura

) Examiner: Luks, Jeremy Austin

for "Stethoscope Head"

)

) Confirmation No. 1434

Serial No.: 10/578,764

)

) Art Unit: 2832

Filed: May 5, 2006

)

) Our Docket No: 1106-0001WOUS

Middletown, Connecticut, July 13, 2009

Commissioner for Patents
P.O. BOX 1450
Alexandria, VA 22313-1450

RESPONSE TO RESTRICTION REQUIREMENT
UNDER 37 C.F.R. §§ 1.111

Sir:

This paper is submitted in response to an Office Action mailed June 12, 2009, having a period for response set to expire on July 12, 2009, extended to July 13, 2009 because July 12, 2009 falls on a Sunday.

In the Office Action, the Examiner alleges that the instant application contains claims directed to two patentably distinct species, viz., Species I (Embodiment 1 of Figures 1-4 directed to a stethoscope in which a head main body portion is provided with two head portions for fitting two diaphragms of different caliber); and Species II (Embodiment 2 of Figures 5-8 directed to a multi-function stethoscope in which when a diaphragm having a small caliber is not used, an apparatus such as a watch with a stop watch function is fitted in place of that diaphragm).

In support of the restriction requirement, the Examiner alleges that Species I and II are independent or distinct because claims to the different species recite the mutually exclusive characteristics of such species and because Species I and II are not obvious variants

of each other. The Examiner requires an election of one of Species I or II and identification of the claims encompassing the elected species.

While the Examiner alleges that Species I (i.e., Embodiment 1) is directed to FIGS. 1-4 and Species II (i.e., Embodiment 2) is directed to FIGS. 5-8, Applicant respectfully notes that the present specification at paragraph [0041] states that “FIG. 2 is a view showing the whole structure according to a second embodiment of the stethoscope head of the present invention for mounting an apparatus 123” and paragraph [0043] states that “a watch is selected out of the various apparatuses.” FIG. 2 does not illustrate the small caliber diaphragm 121. In addition, FIGS. 9-11 also relate to Species II, because the present specification at paragraph [0063] recites “a rotatable cam 52 connected to the apparatus 123, 124” and the apparatus 123, 124 is disclosed in FIGS. 6-8 which the Examiner states are related to Species II. Based on the foregoing, FIGS. 2 and 5-11 are related to Species II.

Applicant hereby elects Species II for prosecution. The claims readable on Species II are claims 1-12.

Applicant believes that the foregoing election fully complies with the Office Action and that all claims of the application are allowable. If the Examiner believes that a telephone conference with Applicant’s attorneys would be advantageous to the disposition of this case, the Examiner is invited to telephone the undersigned.

Appl. No. 10/478,764
Amdt. dated July 13, 2009
Reply to Office Action of June 12, 2009

Applicant believes that no fees are due with the submission of this Response. If, however, it is deemed that any fees are in fact due, they may be charged to Deposit Account No. 503342 maintained by Applicant's attorneys.

Respectfully submitted,

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